

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Federal-State Joint Board on)
Universal Service)

CC Docket No. 96-45

REPLY COMMENTS OF SBC COMMUNICATIONS, INC.

Comments filed in response to the *Rural Task Force Recommendation to the Federal-State Joint Board on Universal Service* (RTF Recommendations)¹ illustrate the wide divergence of interests that must be considered as the Commission seeks to reform existing universal service funding mechanisms. These different perspectives underscore the need for the Commission to undertake a very careful review of these recommendations, as well as the existing funding mechanisms they seek to modify. There is much disagreement on several crucial issues, including: the rate of growth of the fund; whether or not the universal service fund should support "advanced services;" and whether or not it is necessary or justifiable to maintain a dual system of regulation for rural LECs and non-rural LECs serving rural areas. Before any of the recommendations of the RTF are either adopted or rejected, the Commission should take inventory of and address any residual issues avoided by these recommendations by the RTF that are equally problematic for both rural and non-rural LECs. SBC also urges the Commission to take a step back and consider some of the underlying premises upon which the existing mechanisms and rules applicable to non-rural LECs rely. Perhaps the most important

¹ *Rural Task Force Recommendation to the Federal-State Joint Board on Universal Service*, FCC-00J-3, CC Docket 96-45, released Sept. 29, 2000.

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premise for policy-makers, telecommunications providers, and customers to internalize is that when universal service support is provided in any form, it means that one class of customers is being obligated to pay for the costs of services that other customers are consuming.

I. The Size and Rate of Growth of the High-Cost Fund

Rural LECs, rural LEC associations, and regulatory bodies in predominantly rural states are obviously concerned about maintaining or increasing the level of revenue received from the federal fund. Two noteworthy modifications proposed by the RTF would increase the high-cost fund by \$118.5 million² and grow support annually by a factor whether or not an increase is actually necessary.³ Though SBC is not per se opposed to removing the artificial cap on the existing rural LEC high cost loop fund, SBC is concerned with unnecessary and unsubstantiated increases in these funds. If support grows, yet costs remain static, such is the very definition of unnecessary. As such, SBC concurs in part with the comments of the California Public Utilities Commission (CPUC), who commented generally that the RTF did not sufficiently justify the need for such an increase in the size of the high-cost fund and that the resultant level is also without justification.⁴ A demonstration of need as well as the scope of this need to maintain affordable universal service prices should be a threshold requirement for any increases in the high-cost fund.

² *Rural Task Force Recommendation* at 24, note 46.

³ *Id.* At 25.

⁴ *Comments on the Rural Task Force Recommendations by The People of the State of California and the California Public Utilities Commission*, CC Docket No. 96-45 at 3.

Though the modifications recommended by the RTF may serve to promote the stated policy goal of providing access at rates that are *numerically* comparable to that in urban areas, they fail (as does the FCC's Cost-Proxy Model) to consider a *functional* dimension of comparability. This failure serves to defeat the stated public policy goal to ensure that rates are affordable.⁵ The starting point for any high-cost support mechanism should be to ensure quality service at affordable prices. Affordability is not a function of whether or not local loop costs exceed a national average local loop cost benchmark. Instead, affordability is a function of the ability of a given group of consumers to bear the cost of a good or service that they consume. As such, the size of the fund should function as a sanity check on the assumptions made regarding the definition of affordability.

II. The “No Barriers to Advanced Services” Approach

Another proposal by the Rural Task Force includes the adoption of a “no barriers” approach to Universal Service. This approach envisions the availing of sufficient universal service support for telecommunications plant that can provide access to advanced services. SBC joins several other commenting parties in opposing this “no barriers to advanced services” approach.⁶ The statutory guidelines set out in § 254 of the Telecommunications Act of 1996 (The Act) are clear that services must be first included in the definition of supported services to be eligible for support. The Joint Board, while considering the various services that should be included in the universal service

⁵ 47 U.S.C. §254(b).

⁶ *Comments by the CPUC*, at 5.

definition, must consider several threshold factors, including the extent to which such services have been subscribed to by a substantial majority of residential customers.⁷

Though it is clear that widespread deployment of advanced services infrastructure is ongoing, it can hardly be said that the extent of residential subscription amounts to “a substantial majority,” one of several threshold standards established in § 254. An FCC report released in the October 2000 timeframe cites Department of Commerce data indicating that only 4.4% of the 105 million households are accessing the Internet at speeds faster than dial-up connections.⁸ As such, under the standards set out in § 254 of the Act, it is premature to engage in a discussion to expand the definition of supported services to include “advanced services.” It is similarly premature to discuss what universal service support should be made available to encourage investment in advanced services-enabling telecommunications plant by rural carriers.

III. The Perpetuation of a Bifurcated Regulatory System for Carriers Serving Rural Areas

The Maine Public Utilities Commission (MPUC) and the Vermont Department of Public Service (VDPS) call attention to the notion that two different systems of universal service apply to carriers serving rural areas, based largely on their historical role or size.⁹ Though the RTF may have established clear differences between rural and non-rural

⁷ 47 U.S.C. §254 (c)(1)(B).

⁸ High-Speed Services for Internet Access: Subscribership as of June 30, 2000, (FCC Report, released October 2000).

⁹ Comments of the Maine Public Utilities Commission, Vermont Department of Public Service, and Vermont Public Service Board, CC Docket 96-45 at 3.

carriers, the RTF has not established any significant differences between rural areas served by rural carriers and rural areas served by non-rural carriers. This is a significant shortcoming of the current non-rural LEC universal service plan because, according to the MPUC and the VDPS, non-rural carriers serve 80% of rural customers.¹⁰ It is somewhat misguided to adopt these recommendations under the guise of benefiting rural carriers knowing that the modifications suggested would not benefit on 80% of all rural customers.

SBC agrees with the statements of the MPUC and the VDPS that the ultimate goal of a high-cost support system under the Act must be “to provide support to those rural communities, and only those communities, whose costs demonstrate a need for that support.”¹¹ To build on that point, SBC believes that universal service funding mechanisms should focus on customers that would otherwise pay unaffordable rates, rather than on the size or historical role of the company serving those customers. Establishing a standard for affordability as a starting point will also foster a competitive marketplace for residential customers because it will enable the price re-balancing that is needed to make serving residence customers profitable. At the same time, it will eliminate the arbitrage distortions that occur as a result of the economically rational practice of competitors targeting profitable business customers rather than serving residential customers. These arbitrage opportunities exist because business services

¹⁰ *Id.* at 4.

¹¹ *Id.* at 2.

implicitly support residence customers just as low- cost areas implicitly support high-cost customers. The Commission and the various state regulatory agencies should work together to establish a meaningful affordability standard above which prices would be considered unaffordable, and support would be made available. This affordability threshold should be based on a meaningful indicator targeted to specific, geographic areas.

CONCLUSION

In conclusion, SBC respectfully requests that the Commission consider these reply comments in taking any action under this docket.

Respectfully Submitted,

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Certificate of Service

I, Loretia Hill, do hereby certify that on this 30th day of November, 2000, a copy of the foregoing "Reply Comments" was served by U.S. first class mail, postage paid, to the parties listed on the attached sheets.

A handwritten signature in cursive script, appearing to read "Loretia Hill", written over a horizontal line.

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